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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,053	07/21/2003	Eric Michael Gregori	74228	5930
22242	7590	04/04/2006	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/624,053		GREGORI, ERIC MICHAEL	
	<b>Examiner</b>		<b>Art Unit</b>	
	LEE NGUYEN		2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-11 and 18-25 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The IDS filed 03/18/04 and 04/04/2005 have been considered and recorded in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9, 11, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al. (US 6,650,248) in view of Seymour et al. (WO 94/28675).

Regarding claims 1, 18, O'Donnell teaches a method/means for programming a transmitter comprising the steps of and means for: audibly questioning a user, by an appliance, to determine a type of system with which the transmitter is to be used (type of appliance, col. 1, lines 52-66); receiving, at the transmitter from the user, a response to the audibly questioning step (col. 1, lines 59-61); and identifying the type of system with which the transmitter is to be used based on the response to the audibly questioning step (col. 1, lines 61-66, see VCR). O'Donnell fails to teach that the audible questioning or voice prompt is provide by transmitter, rather than the appliance. In an

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analogous art, Seymour teaches that voice synthesizer can be used to prompt the user for programming a remote control transmitter (see abstract, col. 3, lines 13-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the voice prompt of Seymour to the transmitter of O'Donnell in order to program the transmitter without reading and understanding the manual, thereby facilitating the programming procedure.

Regarding claims 2, 19, O'Donnell also teaches using switch for setting in response to the voice prompt (col. 1, lines 61-66). O'Donnell fails to teach that the switch is Dual Inline Packet (DIP) switch. It is taken official notice that the art of using DIP switch in remote control transmitter is conventionally well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide DIP switch to the remote control transmitter of O'Donnell in order to reduce the size of the transmitter.

Regarding claim 3, O'Donnell also teaches that the system with which the transmitter is to be used includes a receiver and the method includes audibly questioning the user, by the transmitter, using questions relating to characteristics of the receiver (col. 2, lines 5-7 of O'Donnell).

Regarding claims 5, 20, the combination of O'Donnell and Seymour also teaches that the step of audibly questioning the user comprises audibly questioning the user about

characteristics of the type of system (col. 1, lines 61-66 of O'Donnell, see appliance type).

Regarding claims 6-7, 21-22, the combination of O'Donnell and Seymour fails to teach that the step of audibly questioning the user about characteristics of the type of system comprises audibly questioning the user about characteristics of the system with closed ended questions and that receiving a response comprises receiving a voice input from the user, wherein the voice input is selected from the group consisting of: "yes" and "no". It is taken official notice that the art of using voice synthesizer to ask question with the answer of "yes" or "no" is well known in commercial market. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide question with answer of "yes" or "know" to the system of O'Donnell in order to guide the user with simple instruction.

Regarding claims 8, 23, the combination of O'Donnell and Seymour also teaches that the step of audibly questioning the user about characteristics of the type of system comprises questioning the user about physical characteristics of the type of system (col. 1, lines 61-66 of O'Donnell).

Regarding claims 9, 24, the combination of O'Donnell and Seymour also teaches that the step of audibly questioning includes audibly questioning the user about a brand of the operator system (col. 2, line 10 of O'Donnell).

Regarding claim 11, the combination of O'Donnell and Seymour also teaches that the transmitter comprises a push button and the method comprises receiving an indication of a push button activation by the user (col. 1, lines 60-66 of O'Donnell).

Claims 10, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell in view of Seymour as applied to claims 1 and 18 above, and further in view of Bush (US 6,397,186).

Regarding claims 10, 25, the combination of O'Donnell and Seymour fails to teach that the step of receiving a response comprises receiving a voice response from the user. The art of using voice recognition or voice response is conventionally well known, as taught by Bush in col. 36, lines 50-67. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Bush with the system of the above combination in order to provide fast response from the user.

#### ***Allowable Subject Matter***

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 4, the prior art of record fails to teach audibly questioning the user, by the transmitter, using questions relating to characteristics of the existing transmitter.

Claims 12-17 are allowed.


Regarding claim 12, the prior art of record fails to teach in response to the user input control, which is question via the voice synthesizer, to transmit at a frequency for the type of system via the radio frequency transmitter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is 571-272-7854. The examiner can normally be reached on FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDERSON D. MATTHEW can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LEE NGUYEN  
PRIMARY EXAMINER